

**439.3401 Parole for violent offenders -- Applicability of section to victim of domestic violence or abuse -- Time of offense -- Prohibition against award of credit.**

- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:
  - (a) A capital offense;
  - (b) A Class A felony;
  - (c) A Class B felony involving the death of the victim or serious physical injury to a victim;
  - (d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;
  - (e) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;
  - (f) Use of a minor in a sexual performance as described in KRS 531.310;
  - (g) Promoting a sexual performance by a minor as described in KRS 531.320;
  - (h) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
  - (i) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
  - (j) Criminal abuse in the first degree as described in KRS 508.100;
  - (k) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
  - (l) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
  - (m) Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3)
  - (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

- (b) A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.
  - (c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.
  - (d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A in which the victim of the offense died as the result of an overdose of a Schedule I controlled substance and who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.
- (4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or her sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
  - (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
  - (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
  - (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.
  - (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

**Effective:** March 25, 2015

**History:** Amended 2015 Ky. Acts ch. 66, sec. 19, effective March 25, 2015. -- Amended 2013 Ky. Acts ch. 101, sec. 1, effective June 25, 2013. -- Amended 2011 Ky. Acts ch. 2, sec. 99, effective June 8, 2011. -- Amended 2007 Ky. Acts ch. 19, sec. 11, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 182, sec. 27, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 120, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 401, sec. 3, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 606, sec. 77, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 173, sec. 4, effective July 14, 1992. -- Amended 1991 (1st Extra. Sess.) Ky. Acts ch. 3, sec. 1, effective February 15, 1991. -- Created 1986 Ky. Acts ch. 358, sec. 1, effective July 15, 1986.

**Legislative Research Commission Note** (6/25/2013). 2013 Ky. Acts ch. 101, sec. 2,

provides that Section 1 of the Act, which included an amendment to this statute, shall be known as the "Bryan Durman Act."